

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

10 DAWN MINTUN,
11 Plaintiff(s),

12 v.

13 EXPERIAN INFORMATION SOLUTIONS,
14 INC., et al.,

15 Defendant(s).

Case No.: 2:19-cv-00033-JAD-NJK

Order

[Docket Nos. 30, 40]

16 Pending before the Court is Defendant Experian Information Solution's motion to stay
17 discovery pending resolution of its motion to dismiss. Docket No. 30. The Court has considered
18 Defendant's motion, Plaintiff's response, and Defendant's reply. Docket Nos. 30, 32, 36. Also
19 pending before the Court is Defendant's motion for a protective order. Docket No. 40. The Court
20 has considered Defendant's motion, Plaintiff's response and Defendant's reply. Docket Nos. 40,
21 41, 43. The motions are properly resolved without a hearing. *See* Local Rule 78-1.

22 **I. Background**

23 Plaintiff brought this action on January 4, 2019, and filed an amended complaint on March
24 12, 2019. Docket Nos. 1, 19. Plaintiff alleges numerous violations of the Fair Credit Reporting
25 Act ("FCRA") and the Nevada Revised Statutes concerning Plaintiff's credit information and her
26 Chapter 13 Bankruptcy proceeding. Docket No. 19 at 3-33. Specifically, Plaintiff alleges that
27 Defendant violated Section 1681g(a)(1) of the FCRA as well as NRS Sections 41.60 and 598 in
28 (1) misrepresenting the ways in which consumer disclosures are used; (2) misrepresenting that

1 reported addresses would not be used as a factor in a credit score; and (3) violated FRCA Section
2 1681g(a)(2) when it failed to properly disclose the source of the names it reported. *Id.* at 10-33.

3 **II. Analysis**

4 The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of*
5 *Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). “The Federal Rules of Civil Procedure do not provide
6 for automatic or blanket stays of discovery when a potentially dispositive motion is pending.”
7 *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed
8 absent a “strong showing” to the contrary. *See, e.g., Turner Broadcasting Sys., Inc. v. Tracinda*
9 *Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests
10 to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2)
11 the potentially dispositive motion can be decided without additional discovery; and (3) the Court
12 has taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced
13 that the plaintiff will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*,
14 294 F.R.D. 579, 581 (D. Nev. 2013); *see also Tradebay*, 278 F.R.D. at 603.

15 ***I. Potentially Dispositive Motion***

16 Defendant submits that its pending motion to dismiss potentially disposes of all of
17 Plaintiff’s claims. Docket No. 30 at 7-9. In response, Plaintiff concedes that the motion to dismiss
18 “arguably addresses all of Plaintiff’s pending claims.” Docket No. 32 at 11.

19 Accordingly, the Court finds that Defendant’s motion to dismiss Plaintiff’s complaint is
20 potentially dispositive of the instant case.

21 ***II. Need for Additional Discovery***

22 Defendant submits that its pending motion to dismiss does not require any discovery to be
23 resolved. Docket No. 30 at 9-10. Defendant submits that its motion to dismiss argues that Plaintiff
24 fails to state a claim under Rule 8 and that the court lacks jurisdiction because Plaintiff fails to
25 allege any injury sufficient for Article III standing; therefore, discovery is unnecessary to the
26 resolution of its motion to dismiss. *Id.* at 6-7.

27 In response, Plaintiff submits that discovery is required on her claims. Docket No. 32 at
28 11. Plaintiff submits that the nuances of Defendant’s reinvestigation of her disputes are unknown,

1 but that this evidence is routinely explored in discovery and requires Defendant to turn over
2 information. *Id.* Plaintiff further submits that discovery is required because Defendant routinely
3 produces policy documents in discovery which explain how it processes consumer disputes, but
4 that it has been concealing additional, critical policy documents for years. *Id.* Plaintiff submits
5 that discovery is relevant to her disclosure and reinvestigation claims, especially on credit
6 information and credit scoring. *Id.* at 11-12.

7 In reply, Defendant submits that discovery is neither appropriate nor necessary to decide
8 the motion to dismiss. Docket No. 36 at 5. Defendant submits that Plaintiff insists on discovery
9 to support her claims, but that the question before the court is whether discovery is necessary to
10 resolve the pending motion to dismiss. *Id.* Defendant submits that Plaintiff fails to provide a basis
11 for discovery in the amended complaint and has no factual basis to challenge its reinvestigation
12 procedures. *Id.* at 5-6. Defendant further submits that Plaintiff fails to allege any facts showing
13 an injury sufficient for Article III standing. *Id.*

14 The Court has reviewed all briefing on Defendant’s motion to dismiss. The Court finds
15 that, while discovery is necessary to resolve the claims themselves, discovery is not necessary to
16 resolve Defendant’s motion to dismiss.

17 *III. Preliminary Peek*

18 Finally, the Court has taken a “preliminary peek” at the briefing on Defendant’s motion to
19 dismiss.¹ Docket Nos. 26, 31, 42. Having done so, the Court is convinced that Plaintiff will be
20 unable to state a claim for relief. *See Tradebay*, 278 F.R.D. at 603.

21 **III. Conclusion**

22 Accordingly, the Court **GRANTS** Defendant’s motion to stay discovery. Docket No. 30.
23 Discovery between Plaintiff and Defendant Experian is stayed pending the resolution of Defendant
24

25 ¹ Conducting the preliminary peek puts the undersigned in an awkward position because
26 the assigned district judge who will decide the motion to dismiss may have a different view of its
27 merits. *See Tradebay*, 278 F.R.D. at 603. The undersigned’s “preliminary peek” at the merits of
28 that motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not
provide a lengthy discussion of the merits of the pending motion to dismiss in this instance.
Nonetheless, the undersigned has carefully reviewed the arguments presented in the motion to
dismiss and subsequent briefing.

1 Experian's pending motion to dismiss. In the event resolution of the motion to dismiss does not
2 result in the termination of this case, the parties shall file a joint proposed discovery plan and
3 scheduling order within seven days of the issuance of the order resolving that motion. In light of
4 the above, the Court **DENIES** Defendant's motion for a protective order as moot. Docket No. 40.

5 IT IS SO ORDERED.

6 Dated: May 15, 2019

7
8 
9 _____
10 Nancy J. Koppe
11 United States Magistrate Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28